



DEPARTMENT OF THE TREASURY

Comments in Aid of Analyses of the Terrorism Risk Insurance Program

AGENCY: Departmental Offices, U.S. Department of the Treasury.

ACTION: Request for Comments.

SUMMARY: The Terrorism Risk Insurance Act of 2002 (TRIA) created the Terrorism Risk Insurance Program (Program) to address disruptions in the market for terrorism risk insurance, to help ensure the continued availability and affordability of commercial property and casualty insurance for terrorism risk, and to allow for the private markets to stabilize and build insurance capacity to absorb any future losses for terrorism events.

The Secretary of the Treasury (Secretary) administers the Program, with the assistance of the Federal Insurance Office (FIO). Treasury requests comments from interested parties regarding some of the issues that FIO will be analyzing in connection with its next report related to the participation of small insurers in the Program, including any competitive challenges such insurers face in the terrorism risk insurance marketplace.

DATES: Submit comments on or before **[INSERT DATE THAT IS 45 DAYS FROM DATE OF PUBLICATION]**.

ADDRESSES: Submit comments electronically through the Federal eRulemaking Portal: <https://www.regulations.gov>, or by mail to the Federal Insurance Office, Attn: Richard Ifft, Room 1410 MT, Department of the Treasury, 1500 Pennsylvania Avenue NW, Washington, DC 20220. Because postal mail may be subject to processing delays, it is recommended that comments be submitted electronically. If submitting comments by mail, please submit an original version with two copies. Comments should be captioned with “2023 TRIA Small Insurer Study Comments.” Please include your name, group affiliation, address, email address, and telephone number(s) in your comment. Where

appropriate, a comment should include a short Executive Summary (no more than five single-spaced pages).

FOR FURTHER INFORMATION CONTACT: Richard Ifft, Senior Insurance Regulatory Policy Analyst, Federal Insurance Office, Room 1410 MT, Department of the Treasury, 1500 Pennsylvania Avenue NW, Washington, DC 20220, at (202) 622-2922 (not a toll-free number), Sherry Rowlett, Program Analyst, Federal Insurance Office, at (202) 622-1890 (not a toll free number), or Annette Burris, Senior Insurance Regulatory Policy Analyst, Federal Insurance Office, at (202) 622-2541 (not a toll free number). Persons who have difficulty hearing or speaking may access these numbers via TTY by calling the toll-free Federal Relay Service at (800) 877-8339.

SUPPLEMENTARY INFORMATION:

I. Background

Section 104(h) of TRIA¹ directs the Secretary, beginning in calendar year 2016, to “require insurers participating in the Program to submit to the Secretary such information regarding insurance coverage for terrorism losses of such insurers as the Secretary considers appropriate to analyze the effectiveness of the Program[.]” This information and data includes information regarding: (1) lines of insurance with exposure to such losses; (2) premiums earned on such coverage; (3) geographical location of exposures; (4) pricing of such coverage; (5) the take-up rate for such coverage; (6) the amount of private reinsurance for acts of terrorism purchased; and (7) such other matters as the Secretary considers appropriate.

In addition, Section 108(h) of TRIA requires the Secretary to conduct, by June 30, 2017 and every other year thereafter, a study of small insurers (to be defined by the Secretary, as has been done under 31 CFR 50.4(z)) participating in the Program to

¹ Public Law 107-297, 116 Stat. 2322, codified at 15 U.S.C. 6701, note. As the provisions of TRIA (as amended) appear in a note, instead of particular sections, of the United States Code, the provisions of TRIA are identified by the sections of the law.

identify any competitive challenges that small insurers face in the terrorism risk insurance marketplace. Section 108(h) also identifies specific matters that Treasury is to analyze in the small insurers study. In addition to the data that Treasury has previously collected and will be collecting in the future, Treasury seeks comments from the public for use in the study that Treasury must conduct concerning the participation of small insurers in the Program.

II. Solicitation for Comments on Small Insurer Participation in the Program

As discussed above, Treasury will be collecting certain data from small insurers as part of its 2023 TRIP Data Call,² which Treasury will use (along with data collected by Treasury during prior TRIP Data Calls) in connection with the study. Treasury welcomes comments concerning small insurer participation in the Program generally, and invites responses to the following particular issues specified in Section 108(h) of TRIA:

- (1) Changes to the market share, premium volume, and policyholder surplus of small insurers relative to large insurers.
- (2) How the property and casualty insurance market for terrorism risk differs between small and large insurers, and whether such a difference exists within other perils.
- (3) The impact of the Program's mandatory availability requirement under Section 103(c) of TRIA on small insurers.
- (4) The effect of increasing the trigger amount for the Program under Section 103(e)(1)(B) of TRIA for small insurers.
- (5) The availability and cost of private reinsurance for small insurers.
- (6) The impact that state workers' compensation laws have on small insurers and workers' compensation carriers in the terrorism risk insurance marketplace.

² The 2023 TRIP Data Call has commenced. See Terrorism Risk Insurance Program Annual Data Collection, <https://home.treasury.gov/policy-issues/financial-markets-financial-institutions-and-fiscal-service/federal-insurance-office/terrorism-risk-insurance-program/annual-data-collection>.

In addition, Treasury welcomes qualitative and quantitative comments on the following additional topics that may be relevant to the competitiveness of small insurers in the terrorism risk insurance marketplace.

- (1) Any potential constraints or market effects on the ability of small insurers to provide coverage for nuclear, chemical, biological, and radiological (NBCR) risks.
- (2) Any risk management strategies and challenges faced by small insurers in maintaining the ability to pay losses associated with insured claims that are not subject to claims for the federal share of compensation (e.g., losses below the Program Trigger, within the insurer deductible, and within the insurer co-pay share).
- (3) The effects, if any, on small insurer participation in the terrorism risk insurance marketplace of the 2019 reauthorization of the Program until December 31, 2027, under the sharing mechanisms in place as of Calendar Year 2020.³
- (4) The role of small insurers in covering cyber-related acts of terrorism under the Program, including any relevant developments in the cyber insurance market.
- (5) The role of small insurers in covering terrorism risk under the Program for Places of Worship.⁴
- (6) The use of risk modeling techniques and other analytical tools by small insurers to assess their risk exposure to losses within the scope of the Program.

³ See Terrorism Risk Insurance Program Reauthorization Act of 2019, Pub. L. 116-94, 133 Stat. 2534.

⁴ As defined in Treasury's TRIP Data Calls. *See, e.g.*, Instructions for Terrorism Risk Insurance Program (TRIP) 2023 Data Call Small Insurers at 22, located at <https://home.treasury.gov/policy-issues/financial-markets-financial-institutions-and-fiscal-service/federal-insurance-office/terrorism-risk-insurance-program/annual-data-collection>.

Treasury issued its first three studies of small insurers under TRIA in June 2017,⁵ June 2019,⁶ and June 2021.⁷ In those studies, Treasury addressed the statutory issues identified above, with reference to data collected by Treasury in the TRIP Data Calls, as well as other available sources. Treasury requests further comment on these issues from interested parties, particularly with respect to any issue that an interested party believes may not be fully evident solely by reference to the aggregated data collected by Treasury.

Steven E. Seitz,
Director, Federal Insurance Office.

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⁵ U.S. Treasury, Study of Small Insurer Competitiveness in the Terrorism Risk Insurance Marketplace (June 2017), https://home.treasury.gov/system/files/311/Study_of_Small_Insurer_Competitiveness_in_the_Terrorism_Risk_Insurance_Marketplace_%28June_2017%29.pdf.

⁶ U.S. Treasury, Study of Small Insurer Competitiveness in the Terrorism Risk Insurance Marketplace (June 2019), https://home.treasury.gov/system/files/311/2019_TRIP_SmallInsurer_Report.pdf.

⁷ U.S. Treasury, Study of Small Insurer Competitiveness in the Terrorism Risk Insurance Marketplace (June 2021), <https://home.treasury.gov/system/files/311/2021TRIPSmallInsurerReportJune2021.pdf>.